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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUL 29 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	CC Docket No. 95-116
Telephone Number Portability)	RM 8535

**PETITION OF THE SPRINT LOCAL TELEPHONE COMPANIES FOR
RECONSIDERATION AND CLARIFICATION**

The Sprint Local Telephone Companies ("Sprint") hereby respectfully requests that the Commission reconsider and clarify its *Third Report and Order*, released May 12, 1998, in the above-referenced proceeding (*Third Report*) in two respects. First, the Commission should revisit and reverse its decision to disallow the use of general overhead loading factors in calculating carrier-specific costs for local number portability ("LNP"). Second, the Commission should clarify that carrying charges incurred as a result of accelerated switch replacement are direct costs which may be recovered by the carriers.

I. Prohibiting the use of overhead loading factors as part of a carrier's direct costs is unreasonable.

At Paragraph 74 of the *Third Order*, the Commission declares that "...carriers may not use a general overhead loading factor in calculating" carrier-specific costs. The Commission's rationale for this departure from a long accepted common practice is that use of a general overhead loading factor will result in carrier double-recovery, since that same factor is applied to other rates.

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Instead, the Commission limits recovery to those incremental overhead costs associated with LNP.

Sprint asserts that the Commission's decision on this issue is unreasonable as well as inconsistent. It is customary, when pricing new services, for the Commission to permit a contribution to common costs through the use of a general overhead loading factor as an estimate of average overhead costs. In fact, in its *Local Interconnection Order*,¹ the Commission found that it is normal practice for a carrier to incur overhead costs when instituting a new service and that it should be permitted to include those costs in the ultimate price of the service. The Commission thus mandated that common costs be allocated among all elements and services. It found specifically that use of a fixed allocator is a reasonable allocation method.²

Use of an overhead loading factor has become commonplace for two reasons; first, it is competitively neutral and second it is a sound business practice. All businesses – regardless of their longevity in the industry – have overhead costs that must be recovered if the business is to continue to thrive. And certainly, as the company continues to grow and offers new services, such as local number portability, the provider's overall common costs of operation

¹ In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, released August 8, 1996 (*Local Competition Order*).

² *Id.*, at paragraph 696.

will increase. Allocating those common costs evenly among all services offered by the enterprise ensures that no one service, or sector of customers, will endure a greater cost recovery burden than others. In a competitive environment, especially one in which new entrants must rely on incumbent providers for certain services, it is essential that the incumbent's overhead costs be allocated among all of its services in a competitively neutral fashion. Use of a general overhead loading factor efficiently accomplishes this goal.

This basic principle – which has been found to be reasonable in the pricing of new services generally – is no less valid when applied to the pricing of local number portability. Common costs will continue to exist with the addition of LNP. It is true that the Commission has permitted the carriers to recover the demonstrable incremental overhead costs associated with LNP. However, that does not address the issue of increased common costs. If a new cost is “demonstrably” incremental, it is not common. Therefore, prohibiting carriers from recovering all common costs related to all services will, in essence, force the creation of yet another implicit subsidy, with a carrier's remaining services shouldering that portion of common costs rightfully belonging to LNP.

The Commission's concern about double recovery incorrectly assumes that common costs do not increase with the introduction of new products. The fact is, if common costs grew exactly with the introduction of each new product, the costs would not, by definition, be common costs. Thus, although recovery

does not perfectly match the outlay, to preclude the application of general overhead guarantees no recovery.

The Commission has mandated the implementation of LNP in an effort to foster local competition. However, creating an unfair advantage for LNP at the expense of all other services does not advance competition. LNP must contribute its rightful share of a carrier's common costs. The application of a general overhead loading factor is the most reasonable and competitively neutral way to assess these costs. Of course, carriers will, and should, continue to bear the burden of proof that the factor chosen is reasonable.

The Commission should reverse its ruling and permit carriers to utilize a general overhead loading factor when calculating LNP pricing.

II. The Commission should clarify that the carrying charges associated with accelerated switch replacement are carrier direct costs of LNP.

The implementation of LNP has caused carriers, including the Sprint LECs, to advance the schedule for local switch replacements in a number of serving areas. In paragraph 73 of the *Third Order* the Commission rejected the notion of classifying the entire cost of a switch upgrade as a direct cost of LNP. Sprint does not disagree with this finding. However, the Commission did not address directly the treatment of the carrying charges associated with these office replacements.

Carrying charges, unlike charges associated with software and switch hardware are, unarguably, the *direct* result of LNP deployment; but for the

mandate of accelerated switch deployment required to support LNP, the carrying charges would not have been experienced by the carrier at this time. Consequently, Sprint urges the Commission to clarify those advancement costs associated with accelerated switch replacement is considered to be carrier-specific costs directly related to providing LNP and, as such, are recoverable items.

Respectfully submitted,
SPRINT LOCAL TELEPHONE COMPANIES

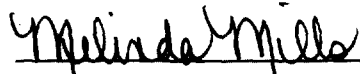
By Jay C. Keithley /mc
Jay C. Keithley
1850 M Street N.W., 11th Floor
Washington, DC 20036-5807
(202) 857-1030

Sandra K. Williams
P. O. Box 11315
Kansas City, MO 64112
(913) 624-1200
Its Attorneys

July 29, 1998

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 29th day of July 1998, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Petition for Reconsideration and Clarification" of the Sprint Local Telephone Companies in the Matter of Telephone Number Portability, CC Docket No. 95-116, filed this date with the Secretary, Federal Communications Commission, to the persons on the attached service list.



Melinda L. Mills

* **Hand Delivery**
** **Diskette**
Facsimile

Kathryn C. Brown*
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW, Room 500
Washington, DC 20554

ITS*
1919 M Street, NW, Room 246
Washington, DC 20554

Joel Ader*
Bellcore
2101 L Street, NW
Suite 600
Washington, DC 20036

Jane Jackson*
Chief, Competitive Pricing Division
Federal Communications Commission
1919 M Street, NW
Room 518
Washington, DC 20554

Marian Gordon*
FCC
2000 M Street, NW
Room 246
Washington, DC 20554

Patrick Forster*
FCC
2000 M Street, NW
Room 246
Washington, DC 20554

Geraldine Matisse*
Chief, Network Services
FCC
2000 M Street, NW
Room 235
Washington, DC 20554

Andre Rausch*
FCC
2000 M Street, NW
Room 246
Washington, DC 20554

Alan Hasselwander
Chairman, NANC
4140 Clover Street
Honeoye Falls, NY 14472